IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1165 OF 2006

The State of Maharashtra ..Appellant
Vs.
Abbas Abdul Kadir ..Respondent

Mrs. S.D. Shinde, APP for applicant-State.

CORAM: B.H. MARLAPALLE & R.S. MOHITE,JJ.

Date : February 27, 2007.

P.C.:

. This appeal is filed by the State for enhancement of sentence awarded by the trial court while convicting the respondent for an offence punishable under Section 417 of IPC. The trial court has directed the payment of Rs.1,50,000/- as fine and in default of payment of fine the accused is to undergo further RI for one year. We have noted that the accused has been acquitted of the charge under Section 376 of IPC. Though the State has filed an application for leave to appeal i.e. Criminal Application No. 4227 of 2006 against the order of acquittal for an offence punishable under Section 376 of IPC, the same has been rejected by us on merits. We have noted that the trial court arrived at the finding that the prosecutrix was above the age of 16 years and was a consenting party for a very long period of time and she has filed the complaint only after it was discovered that she was carrying a child.

As far as the offence under Section 417 is concerned, it was the prosecution case that the accused has promised to marry the prosecutrix but he committed a breach of the promise. We have noted that the prosecutrix had filed her complaint because the accused refused to marry her, maintain her and provide her with a home. It is on this background that the trial court levied a fine of Rs.1,50,000/- and full amount of fine was directed to be paid to the victim.

. We do not find anything perverse or improper about the sentence which is levied in the background of the facts of this case.

. In the circumstances, the appeal for enhancement of sentence is hereby rejected.

(R.S. Mohite, J.) **(B.H. Marlapalle,J.)**